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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Review of the Commission's Rules)
regarding the main studio and)
local public inspection files of)
broadcast television and radio stations)

MM Docket No. 97-138

To: The Commission

**COMMENTS OF THE ASSOCIATION OF
 AMERICA'S PUBLIC TELEVISION STATIONS AND
THE PUBLIC BROADCASTING SERVICE**

The Association of America's Public Television Stations ("APTS") and the Public Broadcasting Service ("PBS") (collectively "APTS/PBS") hereby submit their Comments in response to the Commission's Notice of Proposed Rule Making, released May 28, 1997 in the above-captioned proceeding ("Notice"). APTS/PBS support the Commission's desire to eliminate unnecessary regulatory burdens and believe that the relaxation of the Commission's broadcast main studio and local public inspection file rules are important steps towards achieving that goal.

APTS and PBS are nonprofit organizations whose members comprise virtually all of the nation's 175 noncommercial educational television licensees. APTS represents public television stations in legislative and policy matters before the Commission, Congress, and the Executive Branch, as well as engaging in planning and research activities on behalf of its members. PBS provides program distribution and other services to its members and is a

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leader in the development of new and improved television technologies and efficient use of the television broadcast spectrum.

At a time when funding the transition from NTSC to DTV service is utmost in every television licensee's mind, public television stations must be especially careful to marshal their resources for the costly transition. In light of this fact, APTS/PBS believe it important that certain dated regulations, which do little to enhance the competitive marketplace or to improve a station's responsiveness to its viewers, be amended to comport with a realistic picture of a modern, technologically advanced world.

I. The Commission should relax its main studio rule and allow stations to locate their main studios outside of their communities of license as long as they remain "reasonably accessible" to those communities.

The Commission's rule requiring a broadcast station's main studio to be accessible to its community of license had its genesis in the Communications Act of 1934, which required an equitable distribution of licenses and frequencies among the states and their respective communities.¹ Every radio and television station was thus assigned to a community of license with a primary obligation to serve that community. The Commission envisioned a symbiosis of contact between the broadcast station and the community which it served: community residents would have the opportunity to articulate complaints about or support of the station's activities, while the station itself would develop a clearer picture of the needs of the community in which it was involved.

¹ See Notice at ¶ 4.

However, as the Commission rightly notes,² the give-and-take necessary to sustain a station's connection with its viewership is more easily achieved today in the modern era of communications technology than it was at the inception of the Communications Act. Among the means available to foster this contact include telephones, faxes, E-mail, and the Internet, not to mention highly developed modern systems of transportation. With such technology universally available, it is remarkably easy to keep two entities in contact, even when those entities do not fall within a precisely circumscribed geographic radius. Thus, a lack of physical accessibility can no longer be seen as an inhibiting factor in the establishment and maintenance of connections between stations and their respective viewerships, a fact that supports relaxation of the Commission's main studio rule.

Additionally, relaxation of the main studio rule would be particularly important for public television stations. As the Commission has rightly noted, the principal community contour of a broadcast station varies greatly depending on a station's channel or class. High powered stations, with larger contours, therefore have more flexibility in the location of their stations. Public television stations are more likely to operate with lower power and thus, under the current rules, are more restricted in locating their main studios. Relaxation of the main studio rule would provide public television stations with small service areas more flexibility in locating their main studios.

Lastly, public television stations would not abuse a more relaxed main studio rule. The exchange of ideas between stations and their viewers is of particular importance to public television licensees, where stations rely

² *Id.* at ¶ 5.

heavily on the support—financial and otherwise—of the viewership in their service areas. Without open means of communication, stations would likely lose touch with their viewers’ needs and interests and would be impaired in their ability to serve their local communities’ needs. This could lead to less viewer support, to the detriment of public television. Therefore, regardless of the location of the main studio, a public television station must ensure continued and robust contact between the station and its community of license.

In conclusion, APTS/PBS fully support maintaining the obligation of all broadcast licensees to serve the needs and interests of their respective communities. However, APTS/PBS also believe that this obligation would still be met under a more relaxed rule. Therefore, APTS/PBS support adoption of the proposed “reasonably accessible” standard to determine allowable distance from the main studio to the community of license.

II. The Commission should allow public television stations more flexibility with regard to local inspection rules and should clarify the retention requirement regarding letters pertaining to violent programming.

Based upon the rationale discussed above, APTS and PBS support the Commission’s proposal to revise its rules to allow licensees to locate their local public inspection files at their main studios, wherever located. If such a relaxation of the rule were adopted simultaneously with the proposed revision to the main studio location rule discussed above, then a licensee’s local public inspection file would be located at the same “reasonably accessible” location as its main studio. A licensee thus would be provided flexibility in locating its file and could ensure better maintenance with direct on-site control of the file.

APTS and PBS also support the proposed elimination of certain out-of-date portions of the content requirements of local public inspection files, as detailed in the Commission's Notice. Further, APTS/PBS affirm the Commission's intent to clarify the various public file retention requirements set forth in the Notice. In particular, APTS and PBS seek clarification of the retention period required, if any, for noncommercial public television licensees to retain letters from the public regarding violent programming (see paragraph 30 of the Notice).

Under current FCC regulations, commercial broadcasters are explicitly instructed to maintain written comments and suggestions from the public in their local public inspection files for three years from the dates on which the letters were received.³ In contrast, noncommercial educational stations are not required to maintain letters received from members of the public in their local inspection files.⁴ The Telecommunications Act of 1996 (Section 308 (d)) added the following renewal requirement:

Each applicant for the renewal of a commercial or noncommercial television license shall attach as an exhibit a summary of written comments and suggestions received from the public and *maintained by the licensee (in accordance with Commission regulations)* that comment on the applicant's programming, if any, and that are characterized by the commentator as constituting violent programming (emphasis added).⁵

It is unclear how this renewal requirement applies to noncommercial television licensees. Under the 1996 Act, stations are required to attach to their renewal applications "written comments . . . maintained by the licensee

³ 47 C.F.R. § 73.1202 (a)(1) and § 73.3526 (a)(7).

⁴ See 47 C.F.R. § 73.3527.

⁵ 47 U.S.C. 308(d).

(in accordance with Commission regulations). . . “ As noted above, regulations relating to noncommercial stations do not require the retention of letters, nor reference a retention period for such letters. Since the Commission regulations require public stations to maintain no letters, the Commission should clarify that public stations are therefore exempt from the requirement to attach a summary of letters with complaints of violence with their renewal applications.

Alternatively, the Commission should clarify that public stations’ obligations under Section 308 (d) are no greater than commercial stations’ obligations. Specifically should the Commission require public stations to maintain letters that complain of violence, the Commission should clarify that public stations need not retain such letters any longer than a three year period and that such letters need not be kept in the public inspection files.

As the Commission recognized when it originally exempted public television from the letter retention requirement, such administrative tasks strain public televisions’ limited resources. And as noted earlier, public television must now focus its resources on the difficult transition to DTV. APTS/PBS respectfully request the Commission to keep these factors in mind while it is making its determinations.

Conclusion

For the reasons set forth above, the Commission should relax its main studio location rule to a standard which requires only that a station's main studio be reasonably accessible to its community of license. Similarly, the Commission should allow stations to maintain their public inspection files at their main studios. Lastly, the Commission should clarify that public television stations are exempt from the requirement to attach a summary of violence letters to their renewal applications. Alternatively, should the Commission determine that public television stations are subject to this requirement, it should clarify that such letters need not be retained more than three years and need not be retained in the public inspection files.

Respectfully submitted,



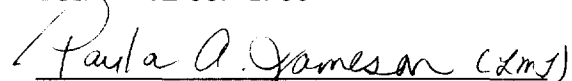
Marilyn Mohrman-Gillis
Vice President, Policy and
Legal Affairs

Lonna M. Thompson
Director, Legal Affairs
Association of America's Public
Television Stations
Suite 200

1350 Connecticut Avenue, N.W.

Washington, D.C. 20036

Tel. 202-887-1700



Paula A. Jameson
Senior Vice President,
General Counsel and Corporate Secretary
Ann Zedd

Assistant General Counsel
Public Broadcasting Service
1320 Braddock Place
Alexandria, VA 22314-1698
Tel. 703-739-7532

Vanessa Butnick
Yale Law School
APTS Legal Intern

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